

APR 14 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Safeguards to Improve the)	CC Docket No. 93-6
Administration of the Interstate)	RM 7736
Access Tariff and Revenue)	
Distribution Processes)	

**COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the principal trade association of the exchange carrier industry. Its membership provides over 98 percent of the exchange carrier-provided access lines in the U. S. USTA member companies directly participate in the interstate access tariff and revenue distribution processes administered by the National Exchange Carrier Association (NECA). Other USTA member companies contribute Long Term Support to the NECA common line pool and are directly involved in the Universal Service Fund and Lifeline Assistance programs.

The Commission is proposing measures it believes will improve the tariff and revenue distribution processes administered by NECA. Among the Commission's proposals is one to include directors from outside the exchange carrier industry on NECA's Board of Directors. The Commission also seeks comment on additional steps which it believes will increase NECA and

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exchange carrier accountability and strengthen NECA's internal operations.

USTA believes that NECA has procedures in place to ensure that its filings on behalf of pool participants comply with Commission rules and that NECA has taken steps to improve those procedures as required. NECA is a unique entity, serving a number of important functions for exchange carriers. Of particular importance is NECA's role as a tariff filing agent for exchange carriers. NECA was formed, in part, to reduce administrative burdens on the Commission and on exchange carriers regarding the filing of Federal tariffs and revenue distribution when the Commission instituted a system of ratemaking based on access charges. The Commission should not implement requirements which would unreasonably interfere with that function or which would shift administrative burdens onto exchange carriers.

In addition, the Commission should not remove governance responsibility from the exchange carriers represented by NECA. For example, identifying the need for and number of outside directors should be presumed to be a fundamental management decision of NECA, as it is for other corporations.

USTA also would encourage the Commission to ensure that its requirements do not affect pool neutrality. Any new requirements should not create incentives for exchange carriers to leave the

pools. Exchange carriers that elect to participate in the NECA pools should not be treated differently under Commission ratemaking policies than exchange carriers which file their own tariffs. If exchange carriers are subject to more stringent data and reporting requirements solely because they participate in the NECA tariff, they will have an incentive to leave the pools. Any new requirements adopted by the Commission in this proceeding should maintain pool neutrality.

The remainder of USTA's comments will discuss some of the Commission's specific proposals.

Outside Directors. The Commission has tentatively concluded that it should amend its rules to include at least two outside directors on the NECA Board on a permanent basis. NECA has already concluded that this step is appropriate. USTA has always supported the view that NECA should be able to control its own operations and governance and has consistently supported Board changes initiated by NECA since its organization.¹ USTA supports NECA's decision here. It does not appear to be necessary, however, to alter the current composition of the Board and to change the overall number of directors. NECA should be permitted to determine how best to ensure that diverse exchange

¹See, Comments of USTA filed July 10, 1991 in National Exchange Carrier Association, Inc. Request for Rule Change Concerning the Composition of its Board of Directors, RM-7736 at p. 1.

carrier interests are fairly represented.

USTA also supports the Commission's tentative decision to accept NECA's eligibility criteria for outside directors and NECA's proposals concerning the selection of outside directors. Again, NECA already has experience in selecting outside directors. NECA should be permitted to establish the criteria it deems necessary to attract a sufficient number of qualified candidates as well as the appropriate procedures to elect two such candidates to the Board.

On-line Access to NECA Data Bases. The Commission proposes that NECA be required to provide on-line, dial-up access to its computer-based files of individual company cost and demand data in connection with tariff filing and revenue distribution data. This proposal must be rejected. It contravenes one of the reasons NECA was established: to serve as filing agent for exchange carriers in order to reduce administrative burdens on the Commission and exchange carriers with respect to Federal tariffs and revenue distribution. No other filing entities, including individual exchange and interexchange carriers under the Commission's jurisdiction, are required to provide the Commission with access to their internal computer databases. Such an individualized intrusion into NECA data collection discriminates against NECA members and is unwarranted and unnecessary.

Less intrusive means to ensure compliance with Commission rules are available. NECA currently verifies that all cost data is derived from audited financial reports of exchange carriers. In cases where exchange carrier data is not audited, NECA requires certification of these financial data by an officer of the company. NECA has required exchange carriers to provide data certification in specific circumstances. The Commission's proposed certification requirement for cost studies may provide additional assurance of compliance with Commission rules without threatening the security and integrity of NECA's databases.

The Commission already receives detailed data from NECA on diskette. NECA currently provides filed data on the Universal Service Fund, network usage, and access tariff cost and demand data in electronic form. Much of the data in the databases are preliminary, consisting of exchange carrier estimates that are continually being revised and updated. These estimates are finalized and provided to the Commission by NECA. Access to such preliminary data would not assist the Commission in ensuring that exchange carriers are in compliance with Commission rules and may result in misunderstandings and errors by those who gain access. Ultimately, any such misunderstandings and errors made in the course of a Commission proceeding could lead to a faulty record. The Commission and NECA would then have to commit time and resources to resolve such matters. USTA urges the Commission not to adopt this proposal.

Independent Audits for Non-pooling Exchange Carriers. The Commission suggests that it might require a sample of rate of return exchange carriers that file their own tariffs to retain independent auditors to report annually on the sufficiency of these exchange carriers' cost studies. Such a suggestion is completely beyond the scope of this proceeding and must be rejected. NECA is not the filing agent for such exchange carriers and should not be made responsible for review of non-pooling exchange carrier cost study data.

A significant number of carriers which would be affected by this suggestion are small companies without the resources to finance independent audits. The Commission has recognized this in the past and has actively sought to minimize the administrative burdens on smaller exchange carriers. The suggestion here is contrary to this Commission policy.

In addition, a number of non-pooling rate of return carriers are not "fully subject" carriers and therefore are not directly subject to the Commission's accounting rules. The Commission would have to ensure that it did not exceed its authority in adopting such a suggestion.

The Commission has procedures to review tariff filings of rate of return exchange carriers which are subject to the Commission's rules. If the Commission or any interested party

believes that any such tariff is not in compliance with Commission requirements, it can institute and/or seek review of such a tariff. There is no need to require these exchange carriers to incur the costs necessary to provide additional cost studies, particularly when their tariffs have not been found to be contrary to Commission requirements. Exchange carriers and their customers should not be forced to incur costs to perform cost studies for which there is no need, particularly when many larger interexchange carriers and other carriers who are not exchange carriers have no regulatory oversight or accounting or audit responsibilities.

USTA urges the Commission not to impose additional administrative burdens on exchange carriers and not to adopt proposals which could impact pool revenues. Therefore, USTA recommends that the Commission not to require on-line access to NECA databases and not to require cost studies for non-pooling rate of return exchange carriers.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

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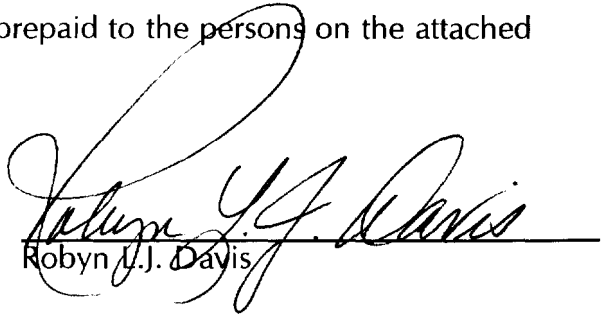
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CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on April 14, 1993 copies of the foregoing Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.


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